

### **III. REMARKS**

A brief review of the status of the claims in this application is believed to be appropriate.

In the Office Action the Examiner indicated that:

15-17 had been withdrawn,

21-31 were allowed;

18-20, 32, 36,38, 48-50 and 54-57 were rejected on an obviousness type double patenting basis which could be resolved by a terminal disclaimer, and;

33-35, 37, 39-47 and 51-53 were objected to as being dependant on previously rejected claims.

By this amendment, the applicant has cancelled claims, amended claims and filed a terminal disclaimer so as to place the entire application in condition for allowance. The claims will be discussed in groupings so as to facilitate an understanding of issues herein.

Claims 18-20 have been cancelled without prejudice and with the right to file a continuation application being retained.

Claims 21-31. Claim 21 has been amended by changing cylindrically to tubularly in two places and inserting the requirement that the upper portion of the module be arcuately shaped. Claim 24 has been amended by requiring the bottom portion to be flat. In Claim 26, cylindrically has been changed to tubularly and is consistent with its parent Claim 21. Other than these changes, Claims 21-31 are the same as those previously allowed. It is respectfully submitted that these changes should not impact the previous allowance of these claims nor necessitate a new search.

Claims 32-49. In this group, claims 32, 36, 38, 48 and 49 were rejected on the basis of double patenting over the commonly owned U.S. Patent 6,740,232. The applicant has filed a terminal disclaimer herewith which obviates the double patenting issue. Since the rejection of those claims has been resolved by the terminal disclaimer, it is respectfully submitted that the remaining claims 33, 34, 35, 37, 39, and 40-47 no longer depend from a

previously rejected claim and are thus patentable. It is respectfully submitted that the entire group 32-49 is presently patentable.

Claims 50-57. In this group, Claims 50 and 54-57 have been rejected on the basis of obviousness type double patenting. Claims 51-53 have been indicated to be allowable but were objected to as depending from a previously rejected claim. The terminal disclaimer resolves rejection as to claims 50 and 54-57. Therefore, those claims are submitted to be patentable. The objection as to claim 51-53 depending from previously rejected claims has been removed and submitted that those claims are similarly patentable.

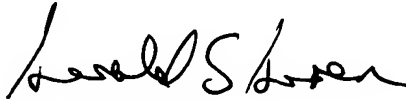
The terminal disclaimer filed herewith disclaims the terminal portion of this patent which may extend beyond the term of U.S. Patent 6,740,232. It is to be noted that U. S. Patent 6,740,232 and this patent are commonly owned. A copy of the assignment in the '232 patent file is also enclosed herewith and will be noted that all continuations and divisions of that case are assigned. This present application is a division of that application.

CONCLUSION

Based upon this amendment, the claims currently in this case and grouped as 21-31, 32-49, and 50-57 are allowable. Allowance is respectfully requested.

If there are any questions, please contact applicant's attorney, Gerald S. Geren at (312) 214-4803.

Respectfully submitted,

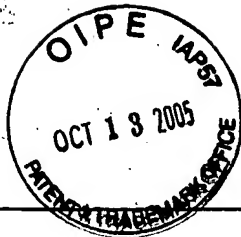
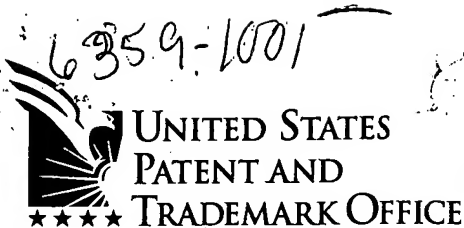


Date: October 11, 2005

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RECORDATION DATE: 05/01/2002

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BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:  
BEAULIEU, EDGAR

DOC DATE: 04/30/2002

ASSIGNEE:  
AQUASCAPE DESIGN, INC.  
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SERIAL NUMBER: 10138974  
PATENT NUMBER:

FILING DATE: 05/01/2002  
ISSUE DATE:

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2. Name and address of receiving party(ies):

Name: **Aquascape Design, Inc.**

Internal Address: \_\_\_\_\_

Street Address: **1200 Nagel Blvd.**

City: **Batavia** State: **IL** ZIP: **60510**

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4. Application number(s) or patent numbers(s):

If this document is being filed together with a new application, the execution date of the application is: \_\_\_\_\_

A. Patent Application No.(s)

B. Patent No.(s)

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5. Name and address of party to whom correspondence concerning document should be mailed:

Name: **Gerald S. Geren**

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City: **Chicago** State: **IL** ZIP: **60604**

6. Total number of applications and patents involved: **1**

7. Total fee (37 CFR 3.41): .....\$ **40.00**

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**Gerald S. Geren**

Name of Person Signing

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**May 1, 2002**

Date

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**ASSIGNMENT**

**Sole Inventorship**

WHEREAS, Edgar Beaulieu hereinafter called the "Assignor", has invented a new and useful CONSTRUCTED WETLANDS SYSTEM, TREATMENT APPARATUS AND METHOD, for a full description of which reference is here made to an application for Letters Patent of the United States executed by them on even date herewith; and

WHEREAS, Aquascape Designs, Inc., a corporation organized and existing under the laws of Illinois having a principal office and place of business at 1200 Nagel Blvd. Batavia, Illinois 60510 hereinafter called the "Assignee", is desirous of acquiring the entire right, title and interest in and to said invention, the application above identified, and in, to and under Letters Patent which may be obtained for said invention, as hereinafter more fully set forth;

NOW, THEREFORE, TO ALL WHOM IT MAY CONCERN, be it known that for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the said Assignor has sold, assigned and transferred, and by these presents does sell, assign and transfer unto the said Assignee, the entire right, title and interest for the United States in and to the invention and application hereinabove identified, and any Letters Patent of the United States that may issue for said invention as well as all continuations, continuations-in-part, divisions and reissues thereof, and any Letters Patents therefor in all countries foreign to the United States; to have and to hold for the sole and exclusive use and benefit of the said Assignee, its successors and assigns to the full end of the term for which any and all of said Letters Patent for said invention that may issue.

And the said Assignor does hereby covenant and agree, for himself and his legal representatives, that they will assist the said Assignee in the prosecution of the application herein identified; in the making and prosecution of any other applications for Letters Patent that the said

Assignee may elect to make covering the invention herein identified, as hereinbefore set forth, including any application for reissue, application for reexamination, or any proceeding in the United States Patent and Trademark Office affecting said invention, investing in the said Assignee like exclusive title in and to all such other applications and Letters Patent; and in the prosecution of any interference or reexamination which may arise involving said invention, or any application or Letters Patent herein contemplated; and that they will execute and deliver to the said Assignee any and all additional papers which may be requested by the said Assignee to fully carry out the terms of this assignment.

And the Commissioner of Patents and Trademarks is hereby authorized and requested to issue Letters Patent to the said Assignee in accordance with the terms of this assignment.

IN TESTIMONY WHEREOF, the said Assignor has hereunto set his hands on the date indicated below.

Dated: 4-30-02

Edgar Beaulieu  
Edgar Beaulieu

Address: 920 Spruce Street Sugar Grove, Illinois 60554

#### NOTARY

Before me personally appeared Edgar Beaulieu, who is personally known to me and whose name is subscribed to the above and foregoing instrument, and acknowledge that he signed, sealed and delivered the said instrument for the uses and purposes herein set forth this 30<sup>th</sup> day of April, 2002.

Dawn Bowgren  
Notary Public

